

Remarks

This amendment is responsive to the official action mailed August 28, 2006, wherein a new non-final rejection of claims 1-18 was made under 35 U.S. C. §102(e) over US Patent 5,979,723 – Tress. The previous indication of allowable subject matter as to claims 11, 17 and 18 was withdrawn and applicant's arguments were considered moot in view of the new grounds for rejection.

Applicant has amended independent claims 1, 11 and 17, and also dependent claim 3, to better distinguish over the Tress reference. The invention now claimed as a whole is not anticipated by Tress or rendered obvious. In addition, for reasons stated in response to the previous official action, the claimed invention is also patentable over the previously cited patents to Cropelli (US 6,802,089), Martin (4,271,543), Svensson (6,324,988) and/or Chen (5,632,049), whether taken individually or in any routine combination. Therefore, the claims as amended are in condition for allowance.

The claimed invention concerns a wall-mounting rod that has a continuous, guiding profile (1a, 1b) for guiding a slide (6), the guiding profile having a slot or groove (5) open to a front side of the wall-mounting rod and open at the end faces of the wall-mounting rod. A bracket (2) is provided for fastening the wall-mounting rod to a surface and is configured to extend the continuous guiding profile (Fig. 2) so that sections of the rod can be arranged endwise and connected end-to-end by the bracket (Fig. 1), while the slot nevertheless is continued across the junction provided by the bracket (2) and the bracket provides an opportunity for attachment to the wall surface. At extreme ends of an assembly of one or more such wall-mounting rod sections, the bracket (2) can receive an end cap (3) that can function as a terminator, which if the end cap is removed provides access that permits a slider to be inserted or removed from the slot.

Thus, applicant's bracket mounts the wall-mounting rod to the surface and connects the wall-mounting rod in end-to-end sections, while the guiding profile

remains clear for guiding the slide. This arrangement is not disclosed in the prior art of record including US Pat. 5,979,723 – Tress.

Tress discloses an automobile roof rack wherein there are supports at the ends of the elongated rods (slotted for receiving sliders that are mentioned but not shown). The Tress end supports are like legs that engage the lateral underside of the rods instead of engaging at the ends of the rods such that sections of the rod can be connected end-to-end, and also mounted to the surface.

Tress discloses a rod terminating member 24 that engages at the end of a rod section, but even assuming that member 24 is considered part of the supporting leg, member 24 does not continue the slot. Member 24 terminates the slot in a manner that resembles applicant's end cap 3. There is no structure or element in Tress that meets the definition of applicant's bracket as claimed.

Applicant has amended the claims to better distinguish over prior art such as Tress. According to amended claim 1, the bracket is attachable to the wall-mounting rod by one of inserting the bracket into the wall-mounting rod, and latching the bracket onto the wall-mounting rod. In claim 3, the wall mounting rod comprises a length of hollow profiled stock defining the slot, and the bracket is attachable to the wall-mounting rod by one of inserting an attachment section of the bracket into an end of the wall mounting rod such that the attachment section engages an interior of the hollow profiled stock. As to claims 11 and 17, the bracket is attached to the wall-mounting rod by insertion of an attachment portion of the bracket into an end of the wall-mounting rod. The claims all define that the arrangement including the bracket also leaves the guiding slot open. The invention as claimed is not disclosed or suggested in the prior art.

In the official action, the Tress disclosure is applied against applicant's claims by construing the claims to be met in Tress by a "plurality of at least partially identically shaped bracket[s] (21, 23) attachable to the wall mounting rod in the

vicinity of the end faces by inserting the bracket into the wall mounting rod and latching the bracket onto the wall mounting rod.” Reconsideration is requested.

Tress’ elements 21, 23 do not meet the limitations of the claims. Tress’ element 21 is a locking cap that terminates the end of the rod, in particular fitting over two supporting sections 19, 20 that are co-linear with the rod and project beyond the end of the rod at the transverse support 16. Sections 19, 20 protrude at the end of the rod for receiving the locking end cap 21, and the end cap terminates the end of the rod and thus closes the slot. See description at Col. 3, lines 27-48). Tress’ element 23 is the taller (rearward) upright exterior contour of the carrier feet leg member (see Fig. 4 or right side of Fig. 1). Element 23 is the leg that extends laterally of the rod from the underside of the rod to the vehicle roof.

There is no basis to assert that these two related elements 21, 23 in Tress form a bracket that meets applicant’s claims. The cited elements do disclose a bracket in that they are separate parts. They don’t even fit together with one another. They are placed differently compared to the rod. One is a lateral foot on the underside of the rod or bar and the other is a slot-closing cap that fits on extensions protruding from the end of the bar. Applicant’s claimed invention comprises a mounting bracket that connects endwise between rod sections while continuing the guide slot across a junction. The prior art fails to meet the subject matter claimed.

Applicant has amended the claims with respect to the endwise attachment aspect of the bracket and rod arrangement of the invention. One cannot reasonably find Tress element 21 to meet applicant’s claims, because Tress element 21 it does not continue the slot or permit the end-to-end attachment of sections. One cannot find Tress element 23 to meet applicant’s claims because it does not engage the end of the rod. It engages the underside. Even if it is proper to select two separate unconnected elements in combination as being “at least one bracket,” which is doubtful, the combination of Tress elements 21 and 23 does not meet the invention

because both aspects of endwise mounting or attachment and continuation of the slot over a junction are missing.

In the comments in the official action, the Tress “brackets” are said to have form-fit attachment sections 21, 28. As noted above, Tress element 21 is an end cap. It is unclear how element 28 is being applied, because that number refers to a fastener 28 that fits a hole in the automobile roof (the number may have been misquoted). See Fig. 4 and col. 5, line 66. Also in the comments in the official action, it is said that the attachment sections 21, 28 are separated by a broadened land joint 18. If one construes these parts of the Tress rod support leg in this way, then the construed bracket does not fit the end of a rod and does not join together lengths of rod. In short, even by applying an expansive construction of the claims, it is not possible to read the claims as a whole onto the cited reference. As a result, the claimed in invention as a whole is not shown to have been anticipated or obvious.

For the foregoing reasons, the claims as amended are patentable over Tress. The prior art fails to meet the invention claimed as a whole. Based on the fundamental differences between the approaches taken according to the invention versus Tress, for mounting a rod with a guide slot, there likewise is no basis to assert that the claimed invention would have been obvious.

Reconsideration and allowance of claims 1-18 are requested.

Respectfully submitted,

Date: January 26, 2007

Docket No. D4700-378
P42498US

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